Notice of Allowability	Application No.	Applicant(s)
	09/286,874	GRAHAM ET AL.
	Examiner	Art Unit
	Joseph T. Woitach	1632
The MAILING DATE of this communication at All claims being allowable, PROSECUTION ON THE MERITS nerewith (or previously mailed), a Notice of Allowance (PTOLNOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT of the Office or upon petition by the applicant. See 37 CFR 1.	SIS (OR REMAINS) CLOSED in 85) or other appropriate commun TRIGHTS. This application is su	this application. If not included nication will be mailed in due course. THIS
. X This communication is responsive to the after final ame	endment filed September 8, 2003	3.
. ☑ The allowed claim(s) is/are <u>2,8 and 13-16</u> .		
B. \boxtimes The drawings filed on <u>April 6, 1999</u> are accepted by the	Examiner.	
. Acknowledgment is made of a claim for foreign priorit	y under 35 U.S.C. § 119(a)-(d) o	r (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:		
 Certified copies of the priority documents t 		
Certified copies of the priority documents t	nave been received in Application	n No
Copies of the certified copies of the priority	documents have been received	in this national stage application from the
International Bureau (PCT Rule 17.2(a)).	
* Certified copies not received:		
Acknowledgment is made of a claim for domestic priori reference was included in the first sentence of the spec	ification or in an Application Data	a Sheet. 37 CFR 1.78.
(a) The translation of the foreign language provision		
 Acknowledgment is made of a claim for domestic priori in the first sentence of the specification or in an Applica 		r 121 since a specific reference was includ
opplicant has THREE MONTHS FROM THE "MAILING DATE elow. Failure to timely comply will result in ABANDONMENT		
. A SUBSTITUTE OATH OR DECLARATION must be so INFORMAL PATENT APPLICATION (PTO-152) which		
B. ☑ CORRECTED DRAWINGS (as "replacement sheets")	must be submitted.	
(a) ⊠ including changes required by the Notice of Drafts	person's Patent Drawing Review	(PTO-948) attached
1) hereto or 2) to Paper No. <u>17</u> .		
(b) I including changes required by the proposed drawing		-
(c) including changes required by the attached Exami	ner's Amendment / Comment or	in the Office action of Paper No
ld ntifying indicia such as the application number (see 37 Cl ach sheet. Replacement sheet(s) should be labeled as such		
□ DEPOSIT OF and/or INFORMATION about the douttached Examiner's comment regarding REQUIREMENT FO		
Attachm nt(s)		
☐ Notice of References Cited (PTO-892)	5 ☐ Notice of Info	rmal Patent Application (PTO-152)
 Notice of Draftperson's Patent Drawing Review (PTO-948) Information Disclosure Statements (PTO-1449 or PTO/SB/08 Paper No 	3) 6⊠ Interview Sun	nmary (PTO-413), Paper No
	/ 🖂 Examiner's Ai	mendment/Comment
■ Examiner's Comment Regarding Requirement for Deposit	it 8⊠ Examiner's St	tatement of Reasons for Allowance

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DETAILED ACTION

This application filed April 6, 1999, is a continuation in part of 09/251,955, filed February 17, 1999, abandoned, which is a continuation in part of application 08/473,168, filed June 7, 1995, now US Patent 5,919,676, which is a continuation in part of application 08/250,885, filed May 31, 1994, now US Patent 6,140,087, which is a continuation in part of application 08/080,569, filed June 24, 1993, abandoned.

This application is also a continuation in part of 08/719,217, filed September 25, 1996, now US Patent 6,080,569, which is a continuation in part of 08/473,168, filed June 7, 1995, now US Patent 5,919,676, which is a continuation in part of application 08/250,885, filed May 31, 1994, now US Patent 6,140,087, which is a continuation in part of application 08/080,727, filed June 24, 1993, abandoned.

Applicants' after final amendment filed September 8, 2003 has been received and entered. The specification has been amended. Claims 1, 3, 4 and 9 have been canceled. Claims 2, 8, 13 and 15 have been amended. Claim 16 has been added. Claims 2, 5-8, 10-16 are pending. Claims 1-4, 8, 9 and 13-15 are currently under examination.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR

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1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the

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payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with

Joseph Fischer on November 5, 2003.

The application has been amended as follows:

Cancel non-elected claims 5-7 and 10-12.

In claim 16, line 5, after the recitation of "each of which encodes" delete [functions] and

insert --proteins whose functions are-- therein.

It is noted that in Applicants' reply, it is indicated that claims 5-7 and 10-12 should be

canceled (page 6-Election/Restriction section), however the claim amendment listing the status

of all the claims does not reflect this (see pages 3-4).

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Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

Applicants' arguments in light of the claim amendments are found persuasive.

Specifically, while the combined teachings of the references provided in the basis of rejection made under 35 U.S.C. 103 provide all the structural limitations encompassed by the claims, none of the references by themselves or in total provide adequate motivation to combine each of the particular teachings used in the basis of the rejection. Examiner agrees that the Graham et al. reference does not provide the specific motivation to combine the teaching in combination with other vectors to provide different serotyped adenoviral vectors. While it is recognized that the motivation to combine the teachings of Graham et al. can come from other references, given all the different types of methodology used to package vectors known in the art and exemplified by the cited references, Examiner would agree that there is not particular motivation which would make the teachings of Graham et al. an obvious means to perform the task. The teachings of Yang et al., Mack et al. and Kass-Eisler et al. provide motivation to make serotyped adenoviral vectors, there is not no specific motivation to use the vectors or methods disclosed by Graham et al. The amendment to newly added claim 16 has been made to more clearly indicate that while a virus may have associated functions, any virus or vector 'encodes' proteins that have these functions. Finally, the amendment to the specification to delete the claim for priority in the first line of the specification is noted. This amendment would not affect the prosecution of the instant

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application, and is consistent with the priority granted to the application set forth by the

Examiner during the prosecution.

Any comments considered necessary by applicant must be submitted no later than the

payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for

Allowance."

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Joseph Woitach whose telephone number is (703)305-3732.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Deborah Reynolds, can be reached at (703)305-4051.

Any inquiry of a general nature or relating to the status of this application should be

directed to the Group analyst Dianiece Jacobs whose telephone number is (703) 308-2141.

Joseph T. Woitach

DEBORAH J. REYNOLDS

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